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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,805	02/13/2001	Peter G R Smith	124-838	9678
7590	07/07/2003		EXAMINER	
Nixon & Vanderhye 8th Floor 1100 North Glebe Road Arlington, VA 22201-4714			ART UNIT	PAPER NUMBER

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Communication R : Appeal</b>	<b>Application N .</b>	<b>Applicant(s)</b>
	09/762,805	SMITH ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Michael C. Zarroli	2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1.  The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:
  - (a)  it was not timely filed.
  - (b)  the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
  - (c)  the appeal fee received on \_\_\_\_\_ was not timely filed.
  - (d)  the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$\_\_\_\_\_.
  - (e)  the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
  - (f)  a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.
  
2.  The appeal brief filed on 09 May 2003 is NOT acceptable for the reason(s) indicated below:
  - (a)  the brief and/or brief fee is untimely. See 37 CFR 1.192.
  - (b)  the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
  - (c)  the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).**
  
3.  The appeal in this application is DISMISSED because:
  - (a)  the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
  - (b)  the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
  - (c)  Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
  - (d)  other: \_\_\_\_\_
  
4.  Because of the dismissal of the appeal, this application:
  - (a)  is abandoned because there are no allowed claims.
  - (b)  is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
  - (c)  is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

MICHAEL C. ZARROL  
PATENT EXAMINER

*Michael C. Zarrol*

The claim on appeal that the applicant sent in with the brief is not claim 1 of this application.